REMARKS

Claims 1-15, 17-25, and 27-30 were pending. Claims 11-15 and 17-19 have been cancelled.

I. Rejections under 35 U.S.C. § 102

Independent claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,389,028 to Bondarenko et al. ("Bondarenko"). As the PTO provides in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim . . . ." Therefore, Bondarenko must disclose all of the elements of the claim to sustain the rejections. Accordingly, Applicant respectfully traverses those rejections on the following grounds.

Independent claim 1 recites, inter alia, the following: receiving <u>a call placed from a user to an ACD server</u>; . . . <u>sending, by the user at any time while the call is in the queue, a dynamic request to the ACD server to determine</u> at least one of the following <u>queue information</u> selected from the group consisting of a user's queue position, holding times, and other related queue data; and <u>returning the queue information from the ACD server to the user</u>." (emphasis added)

In contrast, the cited portion of Bondarenko recites the following:

At step 67, a user makes a decision whether or not to initiate an automated communication link, which is in this example, an IP telephony link. If the decision in step 67 is yes and the link is activated, <u>an IP call is initiated from the user to communication center 15 (FIG. 1) and queued in such as queue 59 of FIG. 2.</u> It is assumed for this example process that there are no agents available to immediately answer the user's placed IP call. Therefore the call is virtually represented and queued as described in step 69. <u>The user receives notification that agents are busy and his original call attempt is terminated once his virtual queue position is established.</u>

At step 71, <u>an automated hyperlink is invoked on the user's behalf that causes his or her browser application to navigate to an information page such as one held in server 24 of FIG. 1. At step 73, the user downloads the information-page and a calculated EWT for response</u> (and in many cases other information) and this information is presented to the user in such as container 63 of FIG. 2.

The information page will include container 63 and optionally other media options, which are presented to the user in step 75. In step 77 the user decides whether or not to invoke one of the other options. If queue 59 is low, perhaps only a few minutes for response time, then a user may elect to simply wait for an IP-call response from an agent. If queue 59 is full and wait time is significant, a user may choose to invoke another media option instead of placing an IP call. (col. 11, lines 30-58) (emphasis added)

First, claim 1 recites "sending, by the user at any time while the call is in the queue, a dynamic request to the ACD server to determine at least one of the following queue information." (emphasis added) In contrast, Bondarenko teaches terminating user's original call attempt once his virtual queue position is established, and then at step 73, the user downloads the information-page and a calculated EWT for response. Thereafter, the user may wait for an IP-call response from an agent. Therefore, Bondarenko teaches determining queue information after the call attempt is terminated, which is contrary to the requirement of claim 1 that teaches determining queue information while the call is in queue.

Second, claim 1 recites "receiving a call placed from a user to an ACD server; . . . sending, by the user at any time while the call is in the queue, a dynamic request to the ACD server to determine at least one of the following queue information . . . ." In contrast, Bondarenko recites initiating an IP call to communication center 15, and then navigate to an information page held in server 24. Therefore, contrary to claim 1, which requires placing a call and requesting queue information from a single ACD server, Bondarenko teaches placing a call to a communication center, and requesting queue information for a separate server 24.

Therefore, claim 1 should be allowed.

II. Rejections under 35 U.S.C. § 103

Independent claims 10, 20, 21 and 30

Independent claims 10, 20 and 30 stand rejected under 35 U.S.C. § 103 over Bondarenko in view of U.S. Patent Application publication No. 2003/0061354 to Burg et al. ("Burg"). Independent claim 21 stands rejected under 35 U.S.C. § 103 over No. 6,226,287 to Brady ("Brady") in view of U.S. Patent No. 5,999,965 to Kelly ("Kelly").

1. Combination fails to teach or suggest all claim limitations

As the PTO recognizes in MPEP § 2143, "[t]o establish a prima facie case of obviousness, . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations." (emphasis added). Furthermore, under MPEP § 2142, "[i]f the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness."

Independent claims 10 and 20

Claims 10 and 20 include elements similar to those of claim 1, and should also be allowed for at least the same two reasons stated above with respect to claim 1.

Independent claims 21

Claim 21 recites "responsive to the user terminating the call before the ACD server transfers the call to a live agent, track how much time the user has been on hold and prioritize the user within the queue the next time the user calls back[.]" In contrast, the cited text of Kelly recites the following:

> CCV based on Assigned Agent Priority--assigned to a particular split can be additionally assigned a priority that influences CCV. A collection of Agents assigned the same priority are routed calls equally. As split depths increase, lower priority agents from other splits, working at remote sites, working from home, etc. can be routed calls as needed to satisfy customer needs. (col. 21, line 63 – col. 22, line 2)

Therefore, contrary to claim 21, which recites prioritizing the user during the next call based on how much time the user has been on hold during this call, Kelly merely recites prioritizing based on assigned agent priority.

Therefore, claim 21 should be allowed.

Independent claims 30

Claim 30 includes elements similar to those of claim 1, and should also be allowed for at least the same two independent reasons stated above with respect to claim 1.

2. Combination of references is improper

Furthermore, Applicant respectfully submits that the combination of Bondarenko and Burg, and Brady and Kelly, respectively, are improper. Section 2142 of the MPEP provides: "... the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made ... The examiner must put aside knowledge of the applicant's disclosure, refrain from using hindsight, and consider the subject matter claimed 'as a whole'."

Here, none of Bondarenko, Burg, Brady and Kelly, teaches or even suggests, the desirability of the combination since none teaches the specific arrangement as specified in claims 10, 20, 21 and 30. Thus, it is clear that none of the references provides any incentive or motivation supporting the desirability of the combination. Therefore, there is simply no basis in the art for combining the references to support a 35 U.S.C. § 103 rejection with respect to claims 10, 20, 21 and 30. Accordingly, claims 10, 20, 21 and 30 are allowable.

Dependent claims

Dependent claims 2-9, 22-25 and 27-29 depend from and further limit respective independent claims 1, 10, 20 and 21, and should also be allowed.

III. Conclusion

It is respectfully submitted that all the claims in the application are in condition for allowance. Should the Examiner deem that any further amendment is needed to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the below listed telephone number.

Respectfully submitted,

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